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09/842,747	04/25/2001	Louis Bouchard	AVALUC-01800	7367
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HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER PHILLIPS, HASSAN A	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/842,747  
Filing Date: April 25, 2001  
Appellant(s): BOUCHARD, LOUIS

Thomas B. Haverstock (32,571)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed September 6, 2005 appealing from the Office action mailed January 27, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,535,586	CLOUTIER et al.	3-2003
6,289,212	STEIN et al.	9-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:  
Claims 1, 2, 4-7, 9-14, 16-20, 22-24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein et al (hereinafter Stein), U.S. Patent 6,289,212 (supplied by Applicant).

In considering claims 1, 7, 14, and 19, Cloutier teaches a method and system for utilizing a push model to provide access to messages in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network, the method comprising the steps of: automatically receiving a message alert from a server 120 through a wireless network and viewing the alert on a wireless device 170, (col. 2, lines 30-41, Fig. 1); forming a communication link through the wireless network thereby linking the wireless device and the server for receiving a message, and providing the message to the user, (col. 2, lines 41-45).

Although the method of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: the message alert being a mailbox content list; selecting a message with the wireless device; and receiving the message over a wireless network.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: receiving a mailbox content list from a server over a wireless network; scrolling through the mailbox content list with a wireless device; and selecting a message with the wireless device, (col. 3, lines 8-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show the message alert being a mailbox content list that a user could scroll through on a wireless device in order to select a message to be received over the wireless network. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple messages were available for the user on the server, Stein, col. 3, lines 24-32.

In considering claims 2, 9, and 20, Cloutier teaches a new message notification. See col. 2, lines 30-41.

In considering claims 4, 16, and 22, Cloutier teaches viewing the alert without accessing the wireless network. See col. 2, lines 30-41.

In considering claims 5, 17, and 23, Cloutier further teaches the user issuing a command using the wireless device. See col. 6, lines 50-54.

In considering claims 6, 18, and 24, Cloutier further teaches the server playing the message according to a command given by the user. See col. 6, lines 54-61.

In considering claim 10, the system of Cloutier provides a means for viewing a new message notification and an updated content list by a user with the wireless device. See col. 2, lines 30-41.

In considering claim 11, although the system of Cloutier shows substantial features of the claimed invention, it fails to explicitly disclose: scrolling through a mailbox content list.

Nevertheless, in a similar field of endeavor, Stein teaches a method for providing electronic mail services during network unavailability comprising: scrolling through a mailbox content list with a wireless device, (col. 3, lines 24-39).

Thus given the teachings of Stein, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier to show scrolling through an updated mailbox content list with the wireless device. This would have provided the user the flexibility to select which message the user desired to receive, in the case that multiple

messages were available for the user on the server along with the new message, Stein, col. 3, lines 24-32.

In considering claim 12, Cloutier further teaches a user selecting a message by issuing a command to the server. See col. 6, lines 50-54.

In considering claim 13, Cloutier further the server delivering the message selected by the user and the message being played for the user by the wireless device. See col. 6, lines 54-61.

Claims 3, 8, 15, 21, are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloutier, in view of Stein, and further in view of the Applicants Admitted Prior Art (AAPA).

In considering claims 3, 8, 15, and 21, although the combined methods of Cloutier and Stein show substantial features of the claimed invention, they fail to expressly disclose the wireless network having a low data-bandwidth, and a high-data latency.

Nevertheless, it was well known in the art at the time of the present invention for wireless networks to have a low data-bandwidth, and a high-data latency. This was admitted by the applicant in the specification on page 1, line 33, and page 2, lines 1-5.

Thus given the teachings of the AAPA it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier and Stein to show the wireless network having a low data-bandwidth, and a high-data latency. This would have shown that the methods of Cloutier and Stein work in networks that were well known at the time of the present invention such as wireless networks with low data-bandwidth, and high-data latency.

#### **(10) Response to Argument**

With regards to claims 1, 2, 4-7, 9-14, 16-20, and 22-24, Appellants first argue on pages 6-11, sections 1-3, that Cloutier in view of Stein does not teach a single wireless device that receives an updated mailbox content list from a server and also receives a message selected from the received mailbox content list via the server.

Similar to Appellants claimed invention, Cloutier teaches a method and system for utilizing a push model to provide access to messages in one or more of a voice, a fax, an e-mail and a unified mailbox through a wireless network wherein message alerts are automatically received from a server (120) through a wireless network (180) and viewed on a wireless device (170), (Cloutier, col. 2, lines 30-41, col. 3, line 62-col. 4, line 14, Fig. 1). As indicated in previous actions, although Cloutier does not expressly teach receiving the message by the same wireless device that received the message alerts, such a teaching is suggested in the teachings of Cloutier. In summarizing the invention Cloutier states, after receiving the message alert "the message recipient may then remotely retrieve the message by establishing communications with the enhanced



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messaging system by telephone or other communication media..." (col. 2, lines 41-45). Cloutier also teaches "...the present invention is compatible and may be implemented with a myriad of alternative access devices and user interfaces for the retrieval of messages..." (col. 7, lines 14-25). Examiner submits, from these teachings of Cloutier, it would have been obvious to one of ordinary skill in the art that the same wireless device that received the message alert from the server, could also access the message via the server since the wireless device falls into the categories of "other communication media" and "myriad of alternative access devices". Suggestions are found elsewhere in the teachings of Cloutier, where Cloutier discloses replacing the wireless device with a personal computer or telephone, (col. 4, lines 15-25). Examiner submits that it would have been obvious to one of ordinary skill in the art that if the wireless device could be replaced with a personal computer or telephone, than the personal computer or telephone could also be replaced with the wireless device. Furthermore, Cloutier teaches a single personal computer that receives a message alert from a server and also receives a message associated with the message alert via the server, (col. 7, line 26-col. 8, line 10, Fig. 6). Clearly, replacing the personal computer with the wireless device would provide a single wireless device that receives a message alert from a server and also receives a message corresponding to the message alert via the server.

In a similar field of endeavor, the teachings of Stein disclose receiving a mailbox content list from a server over a wireless network, scrolling through the mailbox content list with a wireless device, and selecting a message with the wireless device, (col. 3, lines 8-39). Since both the teachings of Cloutier and Stein are directed to the retrieval

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of electronic messages from remote servers (Cloutier, col. 2, lines 30-45, Stein, col. 3, lines 8-39), Examiner asserts one of ordinary skill in the art at the time of the present invention would have found it advantageous to modify the teachings of Cloutier with Stein by replacing the message alert taught by Cloutier with the mailbox content list taught by Stein. As suggested in the teachings of Stein, replacing the message alert taught by Cloutier would have provided an efficient and flexible means for a user of a wireless device to first view messages capable of being retrieved, and select a desired message in cases where multiple messages were available for the user to retrieve from the remote server, (Stein, col. 3, lines 24-32). Combining the teaches of Cloutier with Stein would thus show a single wireless device that receives an updated mailbox content list from a server and also receives a message selected from the received mailbox content list via the server.

With regards to claims 1, 2, 4-7, 9-14, 16-20, and 22-24, Appellants further argue on pages 6-11, sections 1-3, that Cloutier in view of Stein does not result in a viably functioning system because there is no hint, teaching, or suggestion within Cloutier that indicates the messaging system server (of Cloutier) is capable of providing an updated mailbox content list to a wireless device.

Examiner fails to find reason why Appellant believes the messaging system server (of Cloutier) is not capable of providing an updated mailbox content list to a wireless device. Furthermore, Appellants statement suggests that Appellants claimed server is not capable of providing an updated mailbox content list to a wireless device.

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Nevertheless, Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, similar to the teachings of Cloutier where message alerts are automatically received from the messaging system server (col. 2, lines 30-45), Stein teaches the mailbox content list being automatically received from a server, (col. 3, lines 8-23, col. 7, line 48-col. 8, line 7, col. 8, lines 41-48). Since both servers have similar functionality, Examiner maintains it would have been obvious to one of ordinary skill in the art to modify the teachings of Cloutier with Stein to have the messaging system server provide an updated mailbox content list to a wireless device. As previously indicated, modifying the teachings of Cloutier with Stein would have provided an efficient and flexible means for a user of a wireless device to first view messages capable of being retrieved, and select a desired message in cases where multiple messages were available for the user to retrieve from a remote server, (Stein, col. 3, lines 24-32).

With regards to claims 1, 2, 4-7, 9-14, 16-20, and 22-24, Appellants still further argue on pages 6-11, sections 1-3, that Cloutier in view of Stein does not result in a viably functioning system because the mailbox content list of Stein is obtained by a

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wireless device using pull technology, but the message alert of Cloutier, which the mailbox content list is proposed to replace, functions according to push technology.

Examiner submits both pull technology and push technology were well known means, at the time of the present invention, for obtaining remote information. Contrary to Appellants interpretation of the prior art, Stein discloses using both pull and push technology to obtain remote information. As previously discussed, Stein uses push technology so that a mobile device can automatically receive a mailbox content list from a mail server, (Stein, col. 3, lines 8-23, col. 7, line 48-col. 8, line 7, col. 8, lines 41-48). Stein further teaches pulling the mailbox content list if the list has not already been pushed and stored, (Stein, col. 3, lines 8-23). Thus, Examiner maintains it would have been obvious to combine the teachings of Cloutier with Stein for reasons previously indicated.

With regards to claims 3, 8, 15, and 21, Appellants argue on page 11, that Applicants do not agree that the methods of claims 1 and 14, and the systems of claims 7 and 19, including a low data bandwidth, high data latency wireless network, as claimed, are well known in the art.

As mentioned previously, Examiner submits obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, as admitted by Appellants in the disclosure of the claimed

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invention, wireless networks having a low data-bandwidth, and high-data latency was knowledge generally available to one of ordinary skill in the art, (see Appellants disclosure, page 1, line 33, page 2, lines 1-5). Thus, Examiner maintains modifying the methods of claims 1 and 14, and the systems of claims 7 and 19, to include a low data bandwidth, high data latency wireless network would have been obvious to one of ordinary skill in the art at the time of the present invention.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

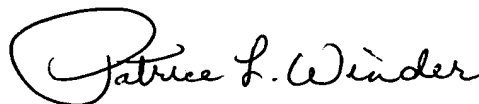
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